

REMARKS

With this Amendment, claims 2, 14, 27, 30-32, 42, 53, and 80 have been amended. Claims 10, 15-16, 20, 28, 35, 37-40, 49, 54, 58, 65-74, and 76-78 have been canceled without prejudice. After entry of the present amendments, claims 1-9, 11-14, 17-19, 21-27, 29-34, 36, 41-48, 50-53, 55-57, 59-64, 75, and 79-81 remain in this application. Applicants wish to thank the Examiner for the courtesy of the telephone interview conducted on January 29, 2007. The Final Office Action rejected claims 1-9, 11-34, 36, 41-48, 50-64, 75-81 as obvious over U.S. Patent No. 5,429,361 ("Raven") in view of U.S. Patent No. 5,923,252 ("Sizer").

Claims 27 and 80 Are Allowable Because Raven and Sizer Do Not Allow Access To Player Preference Type Information

Regarding claims 27 and 80, these claims include the element of transmitting an identifier associated with a player of the gaming machine, which is stored on a portable data unit including a second radio microchip, between the portable data unit and the gaming machine via the radio link, and, responsive to the transmitting, accessing from the central host computer information selected from the group consisting of player preferences for establishing one of a player's preferred gaming machine configuration, game play data and casino preferences. Put simply, according to one aspect, the wireless portable data unit ("PDU") stores an identifier that is associated with a player of the gaming machine. That identifier is transmitted wirelessly between the PDU and the gaming machine and, responsive thereto, certain information is accessed from the central host computer. The information is selected from the group consisting of player preferences for establishing a player's preferred gaming machine configuration, game play data, and casino preferences as in claim 27. Amended claim 80 defines the information as player preferences for establishing a player's preferred gaming machine configuration.

Applicant has amended claim 27 to define the certain information accessed from the central host computer as information being selected from the group consisting of player preferences for establishing a player's preferred gaming machine configuration, game play data, and casino preferences. The Office Action references Col. 6, ll. 4-17 and Col. 16, ll. 14-32 of Sizer which relates to a card with information relating to a person. However, neither Raven nor Sizer uses identity information to access information such as player preferences. Raven does not

disclose accessing information selected from the group consisting of player preferences for establishing a player's preferred gaming machine configuration, game play data and casino preferences from the central host computer in response to transmitting a player-associated identifier between the PDU and the gaming machine. The Office Action cites Col. 1, l. 38- Col. 2, l. 3, Col. 2, ll. 22-35, Col. 3, ll. 16-47, Col. 3, l. 68- Col. 4, l. 57, Col. 9, ll. 4-34 and Col. 10, l. 37-Col. 11, l. 68 of Raven, but these citations do not support transmitting an identifier in combination with accessing information such as player preferences on a central host computer.

Col. 1, l. 38 to Col. 2, l. 3 of Raven is general background on cashless gaming, nothing in this section discloses a PDU storing an identifier associated with a player. Col. 2, ll. 22-35 relates to the display, multiple card reader and keypad (DMK) 12 which includes a keypad, but does not indicate storage of a personal identifier or other player information. Col. 3, ll. 38-44 relates to the use of an employee card not a player card. Further, the employee card does not include player identification or gaming preference information. The employee uses the card to enter a list of variable machine parameters termed a personality in hexadecimal. (Col. 3, ll. 38-47). This is not player identification or player game preference information as a player would not be allowed to configure a gaming machine. Moreover, this information is sent or downloaded from the gaming machine to the computer 16 (col. 3, ll. 38-44) and not from the computer 16 to the gaming machine. The list of parameters in Col. 3, l. 68- Col. 4, l. 57 relate to elements of the personality which may be changed via the keypad 32 (Col. 3, ll. 64-66) and not information which is transmitted from the main computer 16.

Col. 9, ll. 4-34 relate to authentication of the gaming machine. This section relates to obtaining authorization from the computer 16 to alter the game personality (Col. 9, ll. 15-18). A new personality may be sent from the main computer 16, but this is not in response to receiving a player identifier as is required by the claims but rather on a request by an employee (Col. 9, ll. 21-23). In Col. 10, l. 37- Col. 11, l. 62, the player enters a PIN number (which is not stored but rather entered via the keypad 32 by the player) and a credit amount via the keypad 32. Raven does not disclose transmitting that PIN, let alone a personal identifier, from a card to the gaming machine 10, nor would such an arrangement make any sense. Rather, the entered PIN is transmitted for verification "at a financial institution or at the casino." (Col. 10, ll. 57-58). If the correct PIN and valid amount have been entered, the main computer 16 returns an authorization

amount and a code. Even if the PIN were to correspond to the claimed identifier, which it clearly does not, Raven does not disclose accessing information from the central host computer selected from the group consisting of player preferences for establishing a player's preferred gaming machine configuration, game play data and casino preferences. The Office Action cites Col. 11, ll. 63-68 as allegedly disclosing information selected from the group consisting of player preferences for establishing a player's preferred gaming machine configuration, game play data and casino preferences however, this section states:

From the above discussion it is apparent that the invention provides a gaming machine system with multiple features, not only providing the casino operator with extensive information for casino management, but also allowing the player, and employee to interact with the system.

Applicants respectfully submit that the above citation does not disclose accessing information selected from the group consisting of player preferences for establishing a player's preferred gaming machine configuration, game play data and casino preferences. Amended claim 27 requires the host computer being responsive to the transmitting of the player-associated identifier by accessing from the central host computer information selected from the group consisting of player preferences for establishing a player's preferred gaming machine configuration, game play data and casino preferences. For at least the foregoing reasons, claim 27 and its dependent claims are believed to be patentable over Raven in view of Sizer.

As noted above, claim 80 has been amended to include the element that the information received from the central computer consists "of player preferences for establishing a player's preferred gaming machine configuration." As explained above, neither Raven nor Sizer relates to obtaining a player's preferred machine configuration from a central computer. Even if machine "personalities" are stored on the computer 16 in Raven, these "personalities" do not include a player's preferred gaming machine configuration. Raven does not disclose or suggest storing a player's preferred gaming machine configuration. Claim 80 is thus allowable over Raven and Sizer.

Claims 1 and 41 Are Allowable Because Raven and Sizer Do Not Render These Claims Non-Obvious

Claims 1 and 41 relate to a gaming machine including a first wireless transceiver. Data is acquired by a portable data unit with a second wireless transceiver from a data unit provider. The portable data unit is positioned in proximity to the gaming machine, without inserting the portable data unit into any portion of the gaming machine. A wireless transmission link is established between the first and second wireless transceivers and information is transmitted between the portable data unit and the gaming machine via the wireless transmission link. The transmitted information is encrypted to ensure secure and safe transmission.

Applicant maintains the previous position that the inclusion of the encryption element in these claims is alone sufficient to distinguish both Raven and Sizer. Claims 1 and 41 are allowable on this basis alone, in addition claims 1 and 41 are allowable because it is improper to combine Raven and Sizer and thus these claims are non-obvious.

A. Sizer and Raven Are In Different Fields And Solve Different Problems, One Of Ordinary Skill Would Not Look To One Given The Other

The Final Office Action concedes that Raven does not disclose a wireless link, but cites Sizer as disclosing a portable data unit establishing wireless transmission and asserts that a combination of Raven and Sizer is appropriate. However, Sizer relates to a marketing mechanism which may include smart cards used primarily in selective marketing while Raven relates to card based access for various primarily non-marketing functions such as servicing or playing gaming machines. Previously, the February 7, 2006 Advisory Action acknowledges that in order to combine references in different fields, it must be reasonably pertinent to the particular problem with which the applicant is concerned. The Advisory Action asserts that Sizer is a marketing device allowing interaction with a person by increasing the effectiveness of displays to customers. The Advisory Action further asserts that since a casino is a specialized type of retail establishment, one of ordinary skill in the art would modify Raven with the teachings of Sizer.

In fact, Sizer discloses a wireless device such as an RF card in passing and contains almost no further description of them. (See e.g., Col. 6, ll. 11-15). The customers engaged by the marketing device in Sizer do not interact in any way with the marketing device itself. Here, Sizer relates to a passive marketing device with which a customer *in no way* interacts, and which

broadcasts messages to passers-by to induce them to purchase products in the vicinity of the marketing device. The vast majority of the description in Sizer relates to sensing the movements of a person in the vicinity of the marketing device. (See e.g., Col. 2, ll. 52-60, Col. 9, l. 59-Col. 10, l. 50). The broadcasts are not targeted to a customer based on transmitted information from the RF card. The Advisory Action cites to Col. 16, ll. 14-32 as evidence of personalization related to customer identity. However, a closer reading of this section reveals that the description is specific to a trade show and exhibition context and not a point of sale context. One use in this section relates to using the same stored message but adding the reference to the customer by name. (Col. 16, ll. 17-20). The only other use of the card information is to select a message based on subject matter stored on the card. (Col. 16, ll. 30-32). Neither of these examples allows customer interaction with the point of sale device.

Sizer is directed to a fundamentally different marketing system than that which may be employed in a casino environment with gaming machines. The Raven system requires positive customer interaction, as a gaming machine customer must actually play the game to receive a marketing broadcast. Further, the aims of the two references differ. Sizer relates to an exclusive marketing system which does not have any physical relation to point of sale related to the marketing, while the gaming machines in Raven are the point of sale devices with marketing considerations being secondary.

The customer does not interact with the message delivery device 1 of Sizer nor would a customer interact with the inanimate retail products (e.g., wine bottles) associated with the message delivery device 1. Customers engaged by Sizer's marketing device are not lured to purchase or interact with the message delivery device 1; rather they are engaged to influence potential customers to purchase the point-of-sale products in the vicinity of the message delivery device 1. By contrast, according to Raven, players are encouraged to interact with the gaming machine itself because the machine generates revenue automatically once the player initiates interaction. In this respect, Raven differs significantly from the marketing device in that the customers of Sizer's marketing device *in no way interact with it* nor are invited or encouraged to interact with the actual marketing device.

Further, the classifications of the applied references are evidence of non-obviousness that must be considered by the Examiner. Sizer is primarily classified under **Int. Cl. G08B 23/00**,

entitled "Signaling or Calling Systems; Order Telegraphs; Alarm Systems," subpart 00 relating to "alarms responsive to unspecified undesired or abnormal conditions ." In contrast, Raven is primarily classified under **Int. Cl. A63F 9/24**, titled "Card, Board, or Roulette Games; Indoor Games Using Small Moving Playing Bodies; Miscellaneous Games," subpart 24 relating to "games using electronic circuits not otherwise provided for." There is absolutely no overlap or commonality in the classifications of these references or in the fields of search considered relevant by examiners prosecuting these applications. This constitutes evidence of non-obviousness.

For at least the foregoing reasons, Sizer is non-analogous art to the problem at hand, and therefore is not an appropriate prior-art reference to be used for an obviousness-type rejection in conjunction with Raven for any of the pending claims.

B. Raven Teaches Away From Use of Wireless Devices

The February 7, 2006 Advisory Action also asserts that Raven does not teach away from a wireless card because the procedure is necessitated by the card but would not be necessary if the procedure was wireless. However, Raven *teaches away* from Applicants' invention. Raven et al. suffers from precisely the drawback clearly identified in Applicants' Background of the Invention section, cited in response to the previous Office Action, which Applicants' invention sought to overcome:

Heretofore, to communicate with gaming machines, portable data units of the above type have had to be *manually inserted* by players into data unit readers at the gaming machines. This arrangement suffers from numerous drawbacks. First, the process of retrieving the portable data unit and manually inserting it into a data unit reader can be inconvenient to a player especially if the player wishes to play numerous gaming machines in a relatively short period of time. Second, unless the portable data unit is somehow attached to the player by a string, chain, or the like, a player may forget to remove the portable data unit from the data unit reader upon completion of a gaming session, thereby possibly allowing a subsequent unscrupulous player at that gaming machine to use the data unit for his/her own benefit. Third, data unit readers are often disposed at peculiar locations on gaming machines, such as above a video or mechanical display. This, in turn, requires a player to awkwardly reach for the peculiar location to manually insert the portable data unit. If the portable data unit is attached to a string or the like, it is common for the string to hang over and partially obscure the machine display as the player plays the gaming machine.

Page 2, line 21 to page 3, line 2 (emphasis added).

Raven et al. teaches *repeatedly* that the DMK 12 receives a card that is *inserted* into the DMK 12 reader, the precise problem that Applicants' invention sought to overcome. *See, e.g.*, Abstract ("The control unit can accept personality data from a card *inserted* into the card reader"); col. 3, ll. 38-39 ("Once an employee card has been *inserted* into the card reader 34"); col. 8, ll. 35-37 ("The reservation mode may also be canceled by *insertion* of an employee card into the card reader 34"); col. 8, ll. 41-42 ("A valid employee card *inserted* into the card reader 34"); and col. 9, ll. 40-41 ("To enter this mode, the employee will *insert* his card").

The reason Raven mandates an insertable card and thus implicitly teaches away from wireless communication is the purpose of Raven's system. Unlike either Seizer or the present application, Raven is directed toward a system for use by both casino employees and casino customers. For example, one employee use of the insertable card is the machine maintenance function involving reprogramming and altering the personality of gaming machines. (e.g., Col. 3, ll. 38-63). In this context, this function suggests away from using a wireless system because remote activation of such a function would be a security risk. A wireless device being in proximity to a gaming machine would allow unauthorized personnel access to critical game "personality" data. Since one of the main purposes of Raven is to provide employee access to gaming machine parameters, the inconvenience of using a physical card is a necessity and thus teaches away from the use of an insecure wireless automatic access mechanism as disclosed in Sizer.

Moreover, modification of Raven to include wireless functionality would fundamentally change the operation of the wired system significantly and would require a substantial reconstruction and redesign. Nearly all of the hardware and software components disclosed in Raven et al. would have to be substantially modified in order to adapt the wired system to the claimed wireless systems and methods. Significantly, the necessary software and hardware description is absent from Sizer thereby complicating such a design. Substantial redesign to arrive at a claimed invention is also potent evidence of non-obviousness.

Applicants submit that one of ordinary skill in the art would find no inspiration whatsoever in Raven. for modifying it to incorporate the wireless features as claimed. The combination of Raven (which discloses wired instead of wireless data systems) and Sizer (which

does not disclose a gaming machine) actually teaches away from their combination, and therefore they cannot be combined.

C. The Alleged Motivation For Combining Raven and Sizer is Legally Deficient

The Advisory Action concedes that there must be some motivation that would have led one of ordinary skill in the art to combine references or modify references to arrive at the claimed invention. The Examiner must show reasons why a skilled artisan, confronted with the same problems as the inventor and with no knowledge of the claimed invention, would select the elements from the cited prior art references for combination in the manner claimed. However, the only motivation for combining Sizer's marketing system and Raven's manually inserted card system (*i.e.*, "to add the feature of establishing a wireless link with the portable data unit when the unit is within proximity to the gaming machine, but without inserting the portable data unit in the gaming machine,") is wholly conclusory and fails to satisfy the evidentiary requirements for establishing a *prima facie* case of obviousness.

The well-established case law mandates the Applicants should not be left to guess as to the Examiner's position on the alleged motivation for combining Sizer and Raven. Without question, the Examiner has failed to clearly and particularly show that Sizer and Raven teach or suggest reasons why a skilled artisan, and with no knowledge of the claimed invention, would select the wireless features of Sizer's fundamentally different retail marketing system and add them to Raven's manual card system for use in a casino gaming environment. There is simply no cognizable suggestion or motivation in either reference to make the proffered combination. Indeed, as discussed above, Raven teaches away from modifying the hard-wired connections into wireless links:

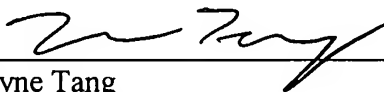
CONCLUSION

If any matters can be clarified by an interview, the Examiner is urged to contact the undersigned at the telephone number provided below. Applicant respectfully requests that a timely Notice of Allowance be issued in this case.

It is believed that no additional fees are presently due; however, should any additional fees be required (except for payment of the issue fee), the Commissioner is authorized to deduct the fees from Jenkins & Gilchrist, P.C. Deposit Account No. 10-0447, Order No. 47079-00107USD1.

Respectfully submitted,

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Wayne Tang
Reg. No. 36,028
JENKENS & GILCHRIST, P.C.
225 West Washington Street, Suite 2600
Chicago, Illinois 60606-3418
(312) 425-3900 (telephone)
(312) 425-3909 (telecopy)

ATTORNEYS FOR APPLICANTS